

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Pasadena Avenue Monterey Road Committee for variance of General Order 143B and authority to explore and enter into negotiations for consideration and implementation pursuant to Public Utilities Code (PUC) §§ 1202, 7604 as a pilot project as permitted by SB 1491.	Application 03-01-013 (Filed January 16, 2003)
Application of the Pasadena Avenue Monterey Road Committee and City of South Pasadena for Variance of General Order 75-C.	Application 03-07-049 (Filed July 25, 2003)
In the Matter of the Application of the City of South Pasadena for Approval of Ordinance 2121 Relating to Limitations of Train Speeds Pursuant to Section 7658 of the California Public Utilities Code.	Application 03-07-050 (Filed July 25, 2003)

ADMINISTRATIVE LAW JUDGE'S RULING ON MOTIONS TO STRIKE

In accordance with the Administrative Law Judge's (ALJ) Ruling Modifying Schedule and on Motions to Strike, dated December 1, 2003 (Schedule Ruling), the opening testimony of the applicants, Pasadena Avenue Monterey Road Committee (PAMRC) and the City of South Pasadena (City) (collectively, PAMRC), and respondent, Los Angeles County Metropolitan Transportation Authority (LACMTA), has been distributed to the parties and the ALJ.

LACMTA's Motion to Strike

On October 10, 2003, LACMTA filed a Motion to Strike Testimony and Exhibit of Witness Ino Rivera (Rivera Motion). In the Schedule Ruling, the ALJ

held decision of that motion in abeyance, pending a decision by PAMRC on whether to continue to offer the Rivera testimony. The Schedule Ruling set a date of January 15, 2004 for PAMRC to notify the parties and the ALJ whether it intended to offer the Rivera testimony. PAMRC did not provide such notification. The Rivera testimony and exhibit may therefore not be offered into evidence at the Evidentiary Hearing (EH). The Rivera Motion is moot and will not be decided.

City's Motions to Strike

On February 27, 2004, the City filed a Motion of City of South Pasadena to Strike Testimony and Exhibits of Melvin Clark on behalf of Los Angeles Metropolitan Transportation Authority (Clark Motion) and a Motion of City of South Pasadena to Strike Testimony and Exhibits of Darren Nielson on behalf of Los Angeles Metropolitan Transportation Authority (Nielson Motion). LACMTA filed a response to both motions on March 4, 2004.

In the Clark Motion, the City challenges the relevance of parts of Clark's testimony. The cited portions of testimony are clearly relevant to this proceeding. The weight to be given to Clark's testimony will be determined after cross-examination at the EH and evaluation of the testimony of other witnesses at the EH. The City has offered no justification for striking the Clark testimony and its motion to strike should be denied.

In the Nielson Motion, the City asserts that Nielson lacks appropriate qualifications, suffers from a conflict of interest, and offers irrelevant and unsupported testimony. On their face, the educational and occupational qualifications presented by Nielson are acceptable. The City is free to explore in cross-examination whether the opinions Nielson offers are reasonably supported by the expertise established. Similarly, the claim of conflict of interest is not

supported by the mere fact that Nielson has been involved with the Gold Line project while working for different employers. If cross-examination reveals an impermissible bias, the subject of bias can be addressed at the EH. As with Clark's testimony, Nielson offers testimony that is relevant to the issues in this proceeding. The weight to be given to Nielson's testimony will be determined after cross-examination at the EH and comparison to testimony of other witnesses at the EH. The Nielson Motion should be denied.

IT IS RULED that:

1. The testimony of Ino Rivera (Rivera) and videotape exhibit to that testimony may not be offered at the Evidentiary Hearing.
2. Los Angeles County Metropolitan Transportation Authority's Motion to Strike Testimony and Exhibits of Witness Rivera is moot and will not be decided.
3. The City's Motion to Strike Testimony and Exhibits of Melvin Clark is denied.
4. The City's Motion to Strike Testimony and Exhibits of Darren Nielson is denied.

Dated March 16, 2004, at San Francisco, California.

/s/ ANNE E. SIMON

Anne E. Simon
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Motions to Strike on all parties of record in this proceeding or their attorneys of record.

Dated March 16, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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